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**Attorneys for Plaintiff Lisa Black**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**

<b>LISA BLACK,</b>	)	<b>CIVIL ACTION NO. 05-0038</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>JIM BREWER, individually and in his</b>	)	<b>PLAINTIFF'S ADDITIONAL</b>
<b>official capacity as Acting Principal for</b>	)	<b>PROPOSED JURY INSTRUCTIONS</b>
<b>Hopwood Junior High School,</b>	)	<b>RE: PREEXISTING CONDITIONS</b>
<b>COMMONWEALTH OF THE NORTHERN</b>	)	
<b>MARIANA ISLANDS PUBLIC SCHOOL</b>	)	
<b>SYSTEM, and JOHN AND/OR JANE DOE,</b>	)	
	)	
<b>Defendants.</b>	)	

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COMES NOW the Plaintiff, and in the light of the testimony regarding Plaintiff's preexisting mental and physical conditions, proposes the addition of the two attached instructions.

Plaintiffs authority for these instructions is the Restatement (Third) of Torts. The Restatement (Third) has not been fully adopted. However § 31 as issued on April 6, 2005, has been finally approved by both the Institute's Council and its membership. The following is the

1 text of § 31 that has been approved:

2 When an actor's tortuous conduct causes physical harm to a person  
3 that, because of preexisting physical or mental condition or other  
4 characteristics of the person, is of a greater magnitude or different  
5 type than might reasonably be expected, the actor is nevertheless  
6 subject to liability of all such harm to the person.

6 Restatement (Third) of Torts: Liab. Physical Harm § 31 (P.D.F. No. 1, 2005).

8 The two attached instructions are drawn word for word from the California Civil Jury  
9 Instructions (BAJI), Fall 2006 Edition. Plaintiff has left the source authority listed on the  
10 instructions and will provide these additional instructions without the source authority in a  
11 digital format. The California instructions seem to the Plaintiff to concur with the Restatement  
12 (Third) of Torts.

14 Dated: February 22, 2007

16 Respectfully submitted:  
17 O'CONNOR BERMAN DOTTS & BANES  
18 Attorneys for Plaintiff Lisa S. Black

20 By: /s/  
MICHAEL W. DOTTS